D.B. CIVIL WRIT PETITION NO.1622/2003.
(Sumati Shikshan Sansthan & Anr. vs. Raj. Non-Govt Educational Institutions & Ors.)

Date :17.05.2005

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.Manoj Bhandari, for the petitioners.
Mr.Pankaj Gupta for
Mr.D.P. Sharma, for the respondents.

By way of instant petition, the petitioners, who are Non-Governmental Educational Institutions, receiving aid from the State of Rajasthan to the tune of Rs.80% of the expenditure in regard to the Higher Secondary School, have challenged the constitutional validity of the Section 16(1) of the Rajasthan Non-Government Educational Institutions Act, 1989 and the Rule 82 of the Rajasthan Non-Government Educational Institutions Rules, 1993. A further direction has been sought to direct the respondents to pay them the gratuity payable to the employees.

The controversy has been settled by a reasoned decision of the Apex Court in Rajasthan Welfare Society vs. State of Rajastan reported in JT 2005 (4) SC 163, wherein it is held that the gratuity within the meaning of the Act and the Rules cannot form part of the recognition grant. In view of the decision

of the Apex Court, the instant petition does not survive and the same stands dismissed.

However, it will be open for the petitioners to make a representation to the State Government. In case such a representation is made, the State Government will consider sympathetically the question of grant of amount payable to the employees being taken into consideration for the purpose of computing the amount of grant in aid. We, however clarify that pending making of such representation and its consideration, the payment of gratuity to the employees shall not be delayed.

(MANAK MOHTA),J. **(N.N.MATHUR),J**

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